

**Spring 2008  
Industry Study**

**Final Report  
*Privatized Military Operations Industry***



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**The Industrial College of the Armed Forces**

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# **Privatized Military Operations 2008**

**ABSTRACT:** The end of the Cold War and the United States' (U.S.) military downsizing in the 1990s drastically altered the U.S. approach to warfare. The decrease in American forces by as much as one-third coupled with an increase in global military missions created the demand for private military services. Since the end of the Cold War U.S. military reliance on contract services in the form of consulting, security and other support has grown significantly, however, public scrutiny and distrust exist due to perceptions of inherent public-private shortcomings. Privatized Military Operations (PMO) can meet shortfalls in military capacity, but will only remain effective and efficient if an agreed upon framework for planning, funding, execution, and oversight is implemented and enforced by the United States Government.

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Blackwater Worldwide, Moyock, NC  
Armor Group, International Training Center, West Point, VA  
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## INTRODUCTION

*“Frankly, I’d like to see the government get out of war altogether and leave the whole feud to private industry.”*

-- Major Milo Minderbinder in Joseph Heller’s, *Catch-22*, 1955

Since the end of the Cold War, a new global industry of Privatized Military Operations (PMO) has emerged. Industry firms now sell everything from small teams of commandos to large scale military supply operations.<sup>1</sup> The trend toward such operations is especially evident in the United States (U.S.). Since 1991, the use of the private sector has allowed the U.S. to downsize its military from 2.1 million to 1.4 million while simultaneously expanding its national commitments and influence abroad. Privatized military operations are now essential to American global power projection and will remain so for the foreseeable future. This presents certain challenges.

From a global perspective, the regulatory spectrum of PMOs runs from being considered an illegal activity in South Africa to nearly unregulated in the United Kingdom (UK). In the case of South Africa, laws keep citizens from helping in conflict areas where skilled military veterans may be needed for humanitarian well as security missions. Additionally, national laws make it illegal for any South African to serve in the military of another nation without obtaining onerous permissions. This is problematic since as many as 700 South Africans are said to be serving in the UK’s military, and up to 4,000 are believed to be providing security for private contractors in Iraq and Afghanistan.<sup>2</sup> In the case of the UK, the situation is best summed-up by a quote from a senior executive with a major company: *“We are not an extension of state, we follow our own ethics and standards.”*<sup>3</sup> Given these two extremes it is not surprising that current U.S. policy regarding Private Military Firms (PMF) is somewhere in the middle; but it is ad-hoc, crisis generated, and department centric. Future U.S. policy needs to ensure flexibility, transparency, accountability, and integration.

The report has three main sections. First, the report defines and describes the PMO industry and includes a case study that examines the recent use of PMFs in Liberia to execute U.S. national security policy. Next, the report examines challenges that the industry faces including a second case study on the Department of State’s (DOS) problematic World Wide Protective Services contract. The report finishes with a discussion of the broad industry outlook and includes several policy recommendations.

## THE INDUSTRY DEFINED

Private Military Firms are businesses that provide governments with professional services intricately linked to warfare. However, unlike the stereotypical small-unit mercenaries of the past, these modern PMFs are corporate bodies that offer a wide range of services, from tactical combat operations and strategic planning to logistical support and technical assistance. Some industry analysts and academics have argued that these firms represent a major development in the evolution of the profession of arms. At first blush this argument does have merit, until you consider market dynamics.

This specific service industry changes constantly in response to an unpredictable and rapidly changing demand curve. The customer base makes it difficult to restrict the definition to

“only” military functions. Buyers in this landscape are as varied as the providers, covering the entire spectrum from governments to individuals. For example, Afghanistan President Hamid Karzai’s close protection detail is provided by the U.S. PMF DynCorp.<sup>4</sup> Similarly, the U.S. DOS contracts close-protection details for American diplomats in Iraq to another U.S. PMF called Blackwater Worldwide. Non-state entities like the United Nations have hired PMFs for protection and security advisory services. Private firms such as British Petroleum hire protection services for pipelines in Columbia.<sup>5</sup> Even individuals have purchased services in this market; a businessman’s wife hired Onix International, a firm made up of ex-New Zealand SAS soldiers, to rescue her husband held hostage in East Timor for \$200,000 in ransom.<sup>6</sup> Given these market dynamics and resultant diverse customer base it is difficult to narrow the definition to only those elements directly linked to military operations by national governments. Peter Singer, the director of the 21st Century Defense Initiative at the Brookings Institute, has done an extensive analysis and defined the industry. His research is a good start but it also has limitations.

Singer divided PMFs into three groups: Military Provider Firms, Military Consultant Firms, and Military Support Firms. A provider firm can operate with offensive or defensive force. A consultant firm provides strategic, operational, or organizational advice and training. A support firm is not part of the core military mission, but delivers services such as food, quarters and cleaning.<sup>7</sup> This grouping, however, is based on the traditional organization of the military battle space with a clearly defined frontline and a safer rear area. In today’s non-linear battlefield Singer’s classification system breaks down as consultant and support firms may be engaged in areas of combat operations.

Therefore, for the purposes of this study it seems logical to define the industry as one that provides capability, consulting, and support to military operations. But it is also important to keep in mind the broad spectrum of the industry and how it overlaps with other “non-military” markets.

## **CURRENT CONDITION**

The end of the Cold War and the United States’ military downsizing in the 1990s altered the methods of waging war. The decrease in American forces by nearly 33 percent combined with an increase in military missions created demand for private military services. Political instability triggered by the end of the Cold War encouraged many state and non-state actors to use violence to gain power, creating a demand for PMFs as the U.S. military lacked the resources to support the entire breadth of what it was assigned to do.

Private military firms are enablers to the U.S. military and their presence is needed for success, especially in protracted operations such as in Iraq where reconstruction and stability operations continue. The PMO industry is in a position to offer significant capabilities that no longer exist in current military structures. Arguably, this industry can provide such capabilities to the government faster and at a lower cost. These firms can also provide a surge capability that enables U.S. operations to quickly expand when necessary, something that does not exist in today’s American military. Similarly, outsourcing prevents the governments from having to maintain expensive capabilities during peacetime or when the capability is not needed.

The use of private firms to augment government operations in the projection of national power is extensive. The worldwide market has grown to approximately \$100 billion annually

with more than 150 companies<sup>8</sup> now operating in more than 50 countries across every continent except Antarctica.<sup>9</sup> These companies range in size from small start-up firms to major defense contractors such as Blackwater Worldwide, Kellogg Brown and Root (KBR), and DynCorp. These firms service a wide range of needs. In the U.S. alone from 1994 to 2002, the Department of Defense entered into more than 3,000 contracts with U.S.-based firms at an estimated contract value of more than \$300 billion.<sup>10</sup> Today in Iraq, the U.S. has obligated over \$13.5 billion to reconstruction efforts through the Departments of Defense and State using more than 800 contracts with U.S. firms.<sup>11</sup> Furthermore, the same privatized firms that augment government operations are now expanding into a customer base composed of “private companies, non-governmental organizations (such as the UN, African Union and NATO) and to a lesser extent, private individuals.”<sup>12</sup> In its annual survey of the industry, the Peace Operations Institute assessed that “the average gross revenue [of the companies surveyed] increased by 86 percent over 5 years, from \$137 million in 2002 to \$256 million in 2006.”<sup>13</sup> Overall, government customers still account for 87 percent of the market<sup>14</sup> with the U.S. government being the largest customer.

The U.S. Department of Defense is significantly increasing its budget for reconstitution of the military services. So far in FY2008, \$46 billion has been approved by the U.S. Congress for “resetting” the force.<sup>15</sup> Nearly half of the “reset” budget goes to equipment repair which is an increasingly privatized function serviced by large defense firms like DynCorp, KBR, L3 Communications, and Lockheed Martin. The profitability of these firms is evident in their stock prices. KBR’s stock, for example, rose 34 percent in 2007 and DynCorp’s increased 31 percent even though the Nasdaq Composite Index declined by 3 percent during the same period as the U.S. economy slowed.

This industry growth was supported, in part, by the expanding pool of available workers with experience in the business. The impact of the growth of private firms arguably affects reenlistment of current active duty personnel. Private firms recruit ex-military personnel and pay them well. Former military personnel hired by these firms enjoy the ability to remain in a military realm, but at salaries greater than their military wages.<sup>16</sup> With databases of literally thousands of ex-military personnel as prospective employees, companies can quickly create a sizable workforce to meet a customer’s needs, then just as quickly let the employees go when the contract ends. The flexibility to grow or shrink the size of the force is clearly a capability not inherent in the uniformed component of the total military force.

As the industry grows, however, U.S. government efforts to oversee the industry have not kept pace. The U.S. Congress and the international community have expressed significant concern over the lack of transparency in the use of privatized firms and the failure to hold firms accountable for injustices and crimes. From a current Congressional Research Service report on the use of private security contractors in Iraq, transparency and accountability fears were summarized as follows:

*“Transparency issues include the lack of public information on the terms of their contracts, including their costs and the standards governing their hiring and performance, as well as the background and training of those hired under contract. The apparent lack of a practical means to hold contractors accountable under U.S. law for abuses and other transgressions, and the possibility that they could be prosecuted by foreign courts, is also a source of concern”.*<sup>17</sup>

The “lack of a practical means” includes a lack of resources (people and funds), the inherent difficulties of gathering evidence of a criminal act in a foreign war zone, and a lack of willingness on the part of the government, specifically the Department of Justice (DOJ), to pursue cases. The 2008 National Defense Authorization Act attempts to improve the government’s capacity and willingness to control the booming privatized military industry by requiring the Secretary of Defense to coordinate with the Secretary of State and prescribe regulations on the selection, training, equipping, and conduct of personnel. The law, which focuses on private security firms, also requires the DOJ to answer to Congress regarding its decisions not to seek prosecutions. Finally, the law provides additional Federal Bureau of Investigation resources to investigate cases abroad. While the Departments of Defense and State determine how to better regulate the industry, other legislation has been hampered by politics. House Resolution 2740, which would further enable the government to control the industry, was passed overwhelmingly by the House of Representatives, but is apparently being delayed in the Senate until the new administration takes over in January of 2009.

In considering current conditions, the recent use of PMFs in West Africa illustrates the practical implications of the complex issues inherent in using PMFs to accomplish U.S. foreign policy objectives.

### **Case Study I: PMFs Executing U.S. Foreign Policy—A New Reality**

The size and scope of contractors operating on the battlefield has exploded since the 1991 Gulf War. In fact, the number of contractors has grown from approximately 1 for every 500 military people in the first Gulf War to 1 for every 1.5 military people in Iraq.<sup>18</sup> As recently as 2006, the Quadrennial Defense Review recognized the new operational reality by stating “The Department and Military Services must carefully distribute skills among the four elements of the Total Force (Active Component, Reserve Component, civilians and contractors) to optimize their contributions across the range of military operations, from peace to war.”<sup>19</sup> Additionally, a Defense Science Board Task Force report from that same year goes further by labeling “the private sector as DOD’s ‘fifth force provider’ for stability operations.”<sup>20</sup>

Despite this recognition of the importance of contractors and the desire to include PMFs in the “Total Force” mix there is one major area of U.S. foreign policy execution that has not received enough attention—the role of PMFs in Security Sector Reform (SSR). It has become increasingly clear that SSR is a viable method to help stem the incubation of terrorism in conflict-torn and conflict-prone states. It is equally clear that PMFs are capable of reforming the security institutions of such states—the military, police, intelligence services and criminal justice system—in order to make them capable of providing security to citizens. It is in this area that the U.S. may help stem the spread of terrorism.

This case study focuses on the use of contractors in non-combat foreign policy roles. It begins by describing the importance of post-conflict and Phase Zero engagement and the gap in U.S. Government (USG) capabilities caused by the Global War on Terror (GWOT). Then, using the Liberia SSR program as a foundation, it covers best practices, and issues resulting from the use of private military contractors in an SSR role. Finally, it concludes with recommendations as to the future use of contractors in non-combat policy execution roles.

## *One Side of the Coin: PMFs in Stability and Security Operations*

A vital tenet of the 2006 National Security Strategy is promoting regional stability and post-conflict reconstruction in order to provide the basis for economic growth and terror-free nations. The Department of States' strategic plan for FY2007-2012 titled *Transformational Diplomacy*, builds on this tenet by highlighting the importance of security as it leads to stability – “Security sector reform enhances governments’ ability to deliver adequate and responsive, transparent, and accountable government through the rule of law.”<sup>21</sup> Accountable government is a key to the strategy of deterring terrorism in developing, failing, and failed states. But with the U.S. military fully engaged in the GWOT, the DOD and DOS have turned to PMFs to fill the gap in programs such as the Liberia SSR. Although these important programs are currently being implemented, some critics charge that the USG might be harming its own foreign policy by using contractors. The ongoing Liberia SSR program is a good example of many of the important issues surrounding the use of PMCs in non-combat roles.

### *Liberia SSR PMFs in Security Reform*

Background: Peace and Stability operations and SSR are highly complex missions that require detailed planning, coordination, and execution. The operations are commonly a combined effort of both the DOD and DOS as the USG attempts, in theory, to bring together all its elements of national power. They are often carried out in remote, austere conditions in poor countries with limited infrastructure. This certainly was the case with Liberia when the USG made the decision to take the responsibility of leading the reform of the Armed Forces of Liberia (AFL). Liberia, after suffering through 14 years of civil war, was in a state of complete disarray. An ongoing United Nations mission (UNMIL) was holding a fragile peace and attempting to reform the Liberian national police force. It was into this quagmire that the first U.S. joint assessment team arrived in early 2004.

The initial assessment team was made up of members of the Department of State, the Office of Defense Cooperation, military members of both U.S. European Command and Marine Forces Europe, and contractors from DynCorp and Pacific Architecture and Engineers (PAE). The mission of this team was to assess the current condition of the Liberian military (forces and infrastructure), develop plans to reform the military and the Liberian Ministry of Defense, and make recommendations as to the size, scope, and mission of the AFL. According to members of DOS that took part in the assessment, having the contractors available and present on the assessment “allowed the contractors to engage in informal discussions with USG personnel to understand their concerns and build a concept of what could be achieved in Liberia.”<sup>22</sup> However, according to a DynCorp employee, “It was awkward to bring competitors together in this setting. It limited the candor of discussions and the breadth of our assessment modalities, as these frequently contain proprietary elements.”<sup>23</sup>

The Plan for Liberia: The plan for reforming of the AFL consisted of: de-arming the old army, recruiting and vetting a new army of 2000, providing basic training, follow-on specialized and advanced training, recruiting and training the Ministry of Defense, and building the required logistics and infrastructure needed to support and house the new army.<sup>24</sup> The USG pledged \$210M to support the program which would train, arm, and equip one fully functional brigade by the end of 2010. During this time frame (early 2004), both DOD and DOS desired that the training be conducted by active duty U.S. military forces. The senior ranking DOS member

stated: “I was personally pleased that SSR formed up like we wanted and expected with the exception of not getting U.S. military forces to conduct the training. At the time I would have wanted a Special Forces battalion but those units were in short supply so we went with contractor trainers, etc.; which is fine but doesn’t make the same statement of US resolve and it’s more expensive.”<sup>25</sup> As journalist Mark Malan observed “The most controversial facet of the SSR Program is the use ... of two private contractors to deliver USG support to the government of Liberia.”<sup>26</sup> The new realties of the total force hit home in Liberia.

### *Lessons Learned—PMFs in Liberia: The Good, Bad, and Ugly*

#### The Good:

- One of the key issues of the new total force is the inclusion of contractors in the planning of contingency operations. The DOD is struggling with this issue right now as it attempts to move forward with the Logistics Civil Augmentation Program (LOGCAP) 4. The DOS African Bureau has resolved this issue by keeping an Indefinite Duration/Indefinite Quantity (ID/IQ) contractor structure within the Bureau. This structure is what allowed DynCorp and PAE to play a major role in defining the concept and requirements for the Liberian SSR Program.
- In an effort well before its time, the DOS and DOD worked hand-in-hand with each other to develop the Liberian SSR without the usual interagency battles. Although the program was the responsibility of DOS, DOD personnel drafted the original assessment and provide a small number of active duty personnel as an oversight measure.
- The firms selected to carry out the program had years of experience working in Africa. Both were well versed in the difficulties of operating in the volatile and often austere conditions of post-conflict nations. This type of experience takes years to develop and can be a huge cost saving factor. Despite funding and other issues related below, both firms performed well on their contracts.

#### The Bad:

- In the ongoing debate of which are cheaper, contractors or USG personnel, the Liberian SSR program adds fuel to the fire. The high salary cost of DynCorp instructors (all former US Army or USMC drill instructors) drove up the overall cost of the program to the point that basic training had to be cut from 11 to 8 weeks. The training that was cut (human rights, civil-military relations in a democracy, and civics) was a key part of the congressionally approved training.<sup>27</sup>
- Funding – The original \$210M that was requested for the program was cut to \$35M. Funding was appropriated in an erratic, unpredictable manner which caused the contractors to halt work a number of times. “The DynCorp contract has been signed on a cost plus basis and DynCorp has a fixed burn rate for every month it is in Liberia regardless [of whether or not] its contracted work is proceeding. The combined expenses of DynCorp and PAE totaled \$18M in the first 6 months of 2007.”<sup>28</sup>
- Regulating non-combat contractors – Unlike all the current efforts to regulate contractors on the battlefield, contractors that support programs like Liberia SSR, are not presently subject to the Uniform Code of Military Justice or the Military Extraterritorial Jurisdiction Act because they are not in a declared war or contingency operation. Non-combat contractors often hold an Administrative and Technical status which provides privileges and immunities similar to

Embassy personnel.<sup>29</sup> This lack of jurisdiction can lead to situations very similar to the current issues with security company employees in Iraq.

The Ugly:

- When the USG outsources programs like Liberia SSR to PMFs, the performance of those firms becomes a direct reflection on the USG. African countries have bad memories of mercenary companies that plagued the continent for years. According to Dr. Amos Sawyer, “The image of DynCorp creating an armed elite is disconcerting to many Liberians.” This happened as early as 1980. Dr Sawyer observed that “every armed group that plundered Liberia over the past 25 years had its core in these U.S.-trained AFL soldiers.”<sup>30</sup> Also, DynCorp’s public image has been tarnished by events in Columbia and Bosnia and “In 2003 Amnesty International dubbed DynCorp as a ‘private company with dubious policing record’ yet the USG awarded the firm the multi-million dollar Liberia contract.”<sup>31</sup>
- When the USG uses its own uniformed forces to conduct peace and stability operations, SSR, or nation building, the target country or region knows the U.S. is truly committed to solving problems. However, when the USG hires PMFs to solve the same types of problems, the target country may feel slighted or, as in the case of Liberia, let down.<sup>32</sup> PMFs, despite their self described patriotic ethos, take contracts to make a profit and are “therefore not the ideal role models to instill subordination to a democratically elected government.” Mark Malan offers that “indeed, in a country and region where recent history has been shaped by warlords and mercenaries, the U.S. State Department has shown remarkable insensitivity by sending in contractors to shape the new army.”<sup>33</sup>
- The use of contractors to conduct these types of programs means that uniformed personnel are losing vital experience in one of the key areas they will need to be proficient in for the future—Phase Zero and post-conflict operations. One DOS employee sums this up best when he writes “Contractors are meant to fill temporary gaps in planning and execution. I would deeply regret the day this work would shift to contractors, whose primary motivation is the maximization of profits.”<sup>34</sup>
- Finally—the really ugly. PMF contracts eventually end and they must be re-bid. Liberia may see yet another company coming in saying they will make everything right.

This was recently demonstrated during a MPRI visit to Liberia for the purpose of bidding to take over the DynCorp contract. Speaking directly with the Liberian Minister of Defense, a company executive made statements that his mission “is to help advance the country security sector reform” and he disclosed plans to have the country’s Coast Guard “get back on its feet.”<sup>35</sup> In response, the Liberian Minister of Defense stated, “the MPRI Company can add more value to the country’s security sector reforming than that currently taking place by DynCorp and others.”<sup>36</sup> This interview took place while the contract with DynCorp was still active and, not only undermined DynCorp efforts, but damaged the overall efforts of the USG.

*Recommendations*

This Liberia case study demonstrates the benefits and costs of using contractors for the execution of U.S. foreign policy programs. It also shows that despite the desires of many people involved, PMFs executing these operations are here to stay—at least for the time being. Based on this, the following recommendations are offered:

- Establish an umbrella contract (ID/IQ) in AFRICOM to provide short notice, expeditionary contractor support for planning, assessments, execution, and oversight of non-combat related foreign policy programs. This worked very well for the Liberia SSR program.
- DOD and DOS must rack and stack non-combat missions and establish priorities. Implementing certain foreign policies must be accomplished by uniformed forces to send the message of USG commitment. Other activities can be contractor-implemented or a mix of government and contractors. The bottom line is that it has to be an informed decision. The USG must also ensure stable and predictable funding for these programs as halts and interruptions in funding may cause contractors to stop training programs while they are still being paid for work they are not performing.
- Greater effort must be made in establishing clear legal status and accountability of PMFs executing non-combat operations in support of the USG. This includes passing House Resolution 2740 to expand the Military Extraterritorial Jurisdiction Act (MEJA).

The new total force that combines both public and private organizations in the execution of United States foreign policy is here to stay. The USG must come to grips with not only the contractor on the battlefield, but the contractor in foreign classrooms and training arenas. If in fact the USG is to continue down this path changes will need to be made to hold PMFs accountable for their actions, accountable for their reputations, and accountable as true members of the total force. If not, “Relying on private military corporations in place of U.S. forces could potentially undermine the credibility of America’s foreign policy commitments.”<sup>37</sup> In today’s volatile world, the United States cannot afford to have its credibility undermined in the eyes of the world. Too much is at stake.

*LtCol Kris Stillings, United States Marine Corps*

## CHALLENGES

The challenges of the PMO industry continue to grow as governments of the world increase their reliance on the firms operating within this industry. As previously mentioned, government customers account for about 87 percent of the PMO market of which the USG is the largest customer. As representatives of the USG, the actions of these private contractors can either provide a positive or negative image of the U.S. with unsavory actions damaging policy both domestically and abroad. This issue underscores all challenges as “relying on private military corporations in place of U.S. forces could potentially undermine the credibility of America’s foreign policy commitments.”<sup>38</sup> As a result, the challenge for executives of PMFs is to work with government policy makers to shape the future of the PMO industry in a manner that is acceptable to all stakeholders.

Although there are many issues facing the PMO industry, five major challenge areas have emerged: integrated strategic planning, PMFs dealings with the USG acquisition processes, clarity and application of law, budget shortfalls, and visibility of and sustaining the labor base. The USG is the dominant PMO customer due to the significant amount of defense spending; therefore other governments will most likely have limited consumer impact on this industry. Some of the more important aspects of these industry challenges relate mainly to PMFs operating for the USG.

### *Integrated Strategic Planning*

Representatives of the PMO industry have stated that private contractors are not included in the USG total force planning efforts until after government officials decide on a course of action. This process is reactive rather than proactive. This can result in the PMO workforce experience and geographic expertise not being included in the decision making process. This is contrary to the U.S. 2006 Quadrennial Defense Review (QDR) and U.S. National Military Strategy (NMS). The QDR includes contractors among the four elements of the “Total Force” that operate across the range of military operations, from peace to war.<sup>39</sup> The NMS requires Combatant Commanders (COCOMS) to include military services, other government agencies, commercial sector, and non-government organizations in their strategic planning.<sup>40</sup>

In addition, contracts awarded by various agencies and departments of the USG are not always coordinated, resulting in COCOMS being unaware of the existence of PMF contractors in their Area of Responsibility (AOR) or what services they are providing. Recognizing that there are significant issues associated with involving private industry in the government planning, such as perceived favoritism, the challenge is for both PMFs and the USG to explore innovative ways to partner such that both parties would benefit by identifying requirements and capabilities in a more transparent manner.<sup>41</sup>

### *PMFs and USG Acquisition*

The key to the successful use of PMFs is in using contracting processes well. Many representatives from the PMO industry, in the U.S. and abroad, have expressed concern over the lack of trained government contracting officers with operational experience. Representatives of the industry have mentioned a disparity between the requirements of operational forces and the specificity of those requirements contained in the contract’s statement of work (SOW). The vagueness in the contract SOW frequently results in the award of a time and material or cost-type contract and a need to modify these contracts after award in order to clarify operational requirements that should have been clearly spelled out in the SOW. Contrary to many perceptions, representatives of PMFs visited during this study of the PMO industry desire firm fixed price contracts because customer requirements are clear and the costs associated with government audits are minimal.

In addition, industry representatives mentioned a lack of continuity of USG contracting officers in the AOR along with a lack of government contract management. One USG contractor said that over a two-year period, the contracting officers for one contract had been replaced more than seventeen times. Vague contract requirements, lack of continuity of contracting officers and contract management result in the loss of time and resources for both PMFs and the USG.

### *Clarity and Application of Law*

The presence of contractors on the battlefield has challenging legal and ethical ramifications and raises troubling questions related to chain of command, authority, liability, force protection, and mission effectiveness.<sup>42</sup> To date, there have been several questionable events involving contractors. However, there has only been one private military contractor prosecuted or punished for a serious crime in Iraq,<sup>43</sup> whereas there have been dozens of U.S. military personnel prosecuted.<sup>44</sup> For example, the unresolved and controversial events of September 16, 2007 involving contractors employed by Blackwater while providing security for U.S. diplomats in Iraq leaves many questioning the effectiveness of the U.S. legal system as it applies to PMFs.

Because this is a global industry, the goal is to develop a useable set of international laws that address who can work for PMFs, who these firms can work for, and who will investigate, prosecute, and punish any wrongdoing by contractors.<sup>45</sup> Proposals to update the international anti-mercenary laws and to create a United Nations body to sanction and regulate PMFs are currently being discussed, but results from this effort will take many years if not decades.<sup>46</sup> Accordingly, states, especially the U.S., must fill loopholes in existing laws or develop new laws that address the legal accountability of these firms.

The USG has amended the Uniform Code of Military Justice (UCMJ) to include persons serving with or accompanying U.S. Armed Forces in the field in times of declared war or a contingency operation.<sup>47</sup> In addition, current legislation is attempting to expand the coverage of the MEJA to include all persons while employed under a contract by a PMF.<sup>48</sup> The challenge to be tested is whether these legislative efforts will be effective in covering crimes committed outside U.S. territory by contractors, some of whom are not U.S. citizens, but work for U.S. PMFs.

#### *Budget Shortfalls – The End of Supplemental Funding*

PMF executives, domestic and abroad, must compete for limited U.S. government funds. As much of the funding for the GWOT has been supplemental funding in the billions of dollars, many government activities and perhaps many PMFs have become reliant on these wartime supplemented funds to operate. However, discussions with many government representatives indicate that GWOT supplemental funding may decline over the next several years. Some military activities visited provided examples of yearly budget increases without supplemental funding of about two percent compared to annual increases in PMF costs of about three to four percent. Without GWOT supplemental funding, USG activities face significant challenges and must become more cost effective in operating internally and in contracting for services. Greater competition will face the PMO industry and firms in the industry will be challenged to demonstrate the worth and cost effectiveness of their services to the USG.

#### *Visibility and Sustaining the Labor Base*

A challenge for PMF executives is to establish greater visibility with the public and U.S. politicians regardless of political party affiliation. The perception is that the public at large is not aware of the value provided by PMFs and are prone to base judgment on isolated events. However, in some cases, PMFs may have been restricted in fully explaining these events because of contractual restrictions. The value provided by PMFs should not be based on random or incomplete media coverage or on the U.S. administration that is in power at any given time, but rather on the value provided by these firms as shown by their ability to fill mission critical gaps in troop shortages while supporting USG operations. In addition, PMF executives must ask themselves what happens to their industry when their service may no longer be needed in Iraq and Afghanistan. Moreover, PMF executives must engage U.S. policy makers and government senior leaders to determine the appropriate skill sets between the government and contractors and how to sustain those skills sets in both times of conflict and peace. PMFs perform many functions once conducted by the U.S. military and are now a critical segment of the U.S. military labor industrial base.

In considering the challenges the industry faces, the expanding use of PMFs by the DOS for security in Iraq and other warzones provides several important lessons. As in the case of security sector reform in West Africa, some PMF issues may appear somewhat abstract and

theoretical but in actual operations are having a real impact on accomplishing U.S. foreign policy objectives.

## Case Study II: Worldwide Personnel Protective Services—Is Outsourcing the Best Solution?

*“One difficulty for PMF clients, that is, those contracting for services, is that the services they are contracting for not only are important, but often are critical to their security. Another genuine concern of all clients, even the most powerful state, is whether a private agent that fails in its obligations can readily be replaced. With PMFs, clear tensions always exist between the security goals of the clients and the firms’ desire for profit”*

*Peter W. Singer, Corporate Warriors, 2003*

Do our Diplomats, Foreign Service Officers, and other leaders deserve personal protective services (PPS) while stationed abroad? The USG has a fundamental responsibility to protect its diplomats and other key foreign and domestic governmental leaders overseas. If PPS is a requirement, then the next question should be whether this mission is inherently governmental in nature or could private companies carry out this mission? Once again, we face the challenge of deciding whether the federal government is better at fulfilling this function, or is outsourcing to a private security company (PSC) a better option? Although the answer remains open to debate within the federal bureaucracy and amongst the American public, reality necessitates outsourcing a large percentage of this workload to the private sector. The DOS is the lead agency responsible for the Worldwide Personal Protective Services (WPPS) program however as the DOS has been unable to resource the requirement in-house, it elected instead to contract this function to private companies.

An initial review of DOS’s outsourcing for WPPS has been positive. Unfortunately, one of the prime WPPS contractors in Iraq, Blackwater USA, had a serious incident (17 Iraqi civilians killed and many more wounded) in September 2007 that created anger and resentment towards the firm and DOS. It likewise called into question DOS’ decision to outsource this mission. In a review of the situation, two questions come to mind. What is the best sourcing strategy for providing WPPS to U.S. Diplomats and other key personnel overseas and if WPPS is deemed inherently governmental, should DOS cancel or modify the current contract while in execution simply to revert it to governmental control? This case study argues that the current State Department strategy of outsourcing its WPPS mission in Iraq and elsewhere is the best course of action despite the 2007 Blackwater incident and calls from Congress for DOS to make this an in-house capability. Contracting a sensitive mission such as WPPS was not simple, but most evidence suggests that this mission has been in the best interest of the USG. This case study examines the background, current situation, advantages and disadvantages of outsourcing, options available to DOS, and several policy recommendations.

### *Background*

The DOS’ first official venture into the protective security arena began as far back as 1916 with the creation of the Office of Security. The need in 1916 was to secure and protect American diplomatic posts and missions abroad and create an internal management element. Following World War Two and with the onset of the Cold War, consular security requirements grew at a considerable pace. The overseas personal security mission expanded even more in the

1980's following the bombing of the U.S. Embassy in Beirut. Two major events resulted from this tragedy. The first was the recommendations of Admiral Bobby Inrnan's *Report of the Secretary of State's Advisory Panel on Overseas Security*, commonly known as the Inman Report. The report, released in 1985, pointed out that DOS would require 1,156 Diplomatic Security (DS) agents at home and abroad to carry out all of the recommendations.<sup>49</sup> One outcome was the creation of the Bureau of Diplomatic Security and the Diplomatic Security Service (DSS) in November 1985."<sup>50</sup> The other key event was President Reagan signing into law the *Omnibus Diplomatic Security and Antiterrorism Act of 1986*, which codified the recommendations of the Inman Report. It also mandated DSS be structured like other federal law enforcement, security, and intelligence agencies.

More changes occurred to the DS program in the 1990's. It began with DOS affording private companies the opportunity to compete for contracts at U.S. overseas missions. In these contracts, the DOA sought to standardize the way posts contracted and paid guard force services, to enhance uniform fiscal reporting, and to streamline security management. Over the last decade, conflicts, wars, political unrest, and terrorist activity required the deployment of diplomats to areas that had become extremely dangerous places to live and work. As the USG continued its diplomatic efforts in those areas, the assets and resources needed to ensure the safety and security of U.S. diplomats and other government representatives also increased. As a result, DS began using civilian contract personal security specialists to fulfill this immediate DOS priority. Diplomatic Security first deployed PSS contractors in September of 1994 during a prolonged period of unrest in Haiti. In the intervening period, the DOS fielded PSS contractors in Bosnia, Israel, Haiti, and Afghanistan.<sup>51</sup>

As the expansion of additional embassies overseas continued, so did the threat to American and foreign dignitaries, resulting in greater DS mission requirements. Notwithstanding the Blackwater incident in 2007, DOS has successfully used contractors to assist DS in meeting protection requirements. Subsequently, Ambassador Patrick Kennedy's Panel review of the Blackwater incident found areas needing improvement, but fell short of condemning the role contractors perform. Furthermore, the employment of security contractors has become a critical DOS tool for providing services necessary to protect U.S. embassies, consulates, mission-housing areas, Foreign Service personnel, and ambassadorial residences in more than 111 countries worldwide (155 diplomatic posts).<sup>52</sup>

### *Discussion*

The use of PSS contractors has allowed DS to rapidly expand its capability to meet the increased protective duties and to support national-security initiatives without the delay of recruiting and training full-time personnel. A DS staff member commented that DOS can recruit, vet, hire, train, and deploy contractors for specific security functions in approximately 90 to 120 days, compared to the two-year-long recruitment, hiring, and training process for a fully-qualified DS special agent. Furthermore, using contractors allows DOS to quickly hire a skilled cadre of security professionals for emergency needs as world events unfold, often with little notice. It likewise gives DOS the flexibility to rapidly expand or reduce the level of security personnel deployed based on the operational environment.

In 2000, DOS recognized there was a consistent and sustained need for PSS contractors, so it developed and awarded the first iteration of the WPPS contract to DynCorp. Early contract work involved operations in the former Yugoslavia, the Palestinian Territories, and in

Afghanistan. As stated by Ambassador Richard J. Griffin, the Assistant Secretary of State for Diplomatic Security; “In early 2004, additional task orders were added to the WPPS contract to provide PSS support for Embassy Baghdad when it opened on July 1, 2004. DynCorp was unable to meet the full requirements of the expanding mission and a second service provider was established through a contract with Blackwater USA. Another company, Triple Canopy, was subsequently awarded a contract to protect the Regional Embassy Office in Basrah, Iraq. Concurrently, the Department drafted and released a competitive contract covering the ever-increasing requirement for protective services throughout the world. In June of 2005, DynCorp, Blackwater USA, and Triple Canopy were awarded contracts under what is now known as the WPPS II contract.”<sup>53</sup> DOS subsequently upgraded personnel qualifications, training, equipment, and management requirements WPPS II due to emerging requirements.

The WPPS II umbrella contract has a ceiling of \$1.2 billion per contractor over five years (one base plus four option years). DOS maintains seven active task orders under WPPS II: Jerusalem, Kabul, Bosnia, Baghdad, Basrah, Hillah, and Kirkuk (including USAID Erbil). An eighth operational task order for aviation services in Iraq was awarded to Blackwater.<sup>54</sup>

DOS requires its contractors to abide by set personnel requirements criteria. Each private security firm employee must meet specific experience requirements delineated by position title and description. In turn, the security firm contractor must verify that each person proposed possesses the requisite experience and training required by the contract before that individual is approved to enter the program. Higher level review occurs in Washington DC at the DS High Threat Protection Program Office where they make the final determination for all candidates for key leadership positions. The contractor certifies that all other personnel meet the requirements.

Diplomatic Security ensures that all PSS personnel receive training in accordance with the requirements in the WPPS II base contract. DS Special Agents use the “train the trainer” methodology to ensure contractor trainers meet DS specifications. The contract contains the qualifications and requirements for both facilities and instructors providing PSS training. Additionally, all PSS personnel must attend and successfully complete pre-deployment training that consists of 164 hours of instruction delivered by instructors previously vetted by DS. In the end, DS will only deploy successfully trained and qualified contractors.

The WPPS II personnel numbers are impressive. “There are 1,433 personnel, excluding sub-contractors, currently working under the WPPS II contract. Of that total, 833 work as personal security specialists, 410 as guards, and 190 as support personnel. In Iraq alone, there are 716 personal security specialists, 390 authorized guards, and 155 support personnel. The aviation task order recently added over 240 personnel in Iraq. The approximate current annual cost under WPPS II contracts for all areas of operation (Afghanistan, Bosnia, Israel, & Iraq) is \$570,882,962. Iraq alone accounts for \$519,938,634 of the contract.”<sup>55</sup>

WPPS current operations fall under the command and control of the senior DS Agent in country. This Regional Security Officer (RSO) provides general oversight and manages the operations of security contractors. This same person assigns a number of DS Agents to provide oversight of the protective operations, including the PSS contractors. The RSO will embed select DS Agents within PSS protective details to observe / participate in training and accompany details missions. Program management is not limited to operations in country; the Washington DC program office also conducts periodic review and ensures contract compliance.

Under the base WPPS contract, all PSS personnel are required to follow the Mission Firearms Policy of the post to which they are assigned, in this case Embassy Baghdad. Any use of force by a PSS in the course of operations must comply with this policy. Embassy Baghdad's Mission Firearms Policy is defensive in nature, while at the same time taking into account specific circumstances surrounding our security operations in an active war zone. The WPPS base contract establishes minimum standards of conduct not only regarding the use of firearms, but also covering areas such as dress and appearance, performance of duties, disorderly conduct, drugs and alcohol, and criminal activity. All PSS personnel acknowledge that violation of these policies may result in termination from the program. If DOS suspects criminal activity, the Department of Justice is likely to get involved.

Mission statistics are likewise impressive. In the span of nine months in 2006-2007, PSS contractors conducted 3,073 missions in which they escorted American diplomats or visitors to locations within Iraq. Out of those 3,073 missions, there were 77 incidents involving PSS personnel that resulted in the use of weapons. These missions occurred during a period in which there were 54,236 recorded attacks (an average of 6K per month) throughout Iraq; almost 208 attacks per day during which PSS contractors must safely transport Department personnel.<sup>56</sup> Since 2004, two DS agents and 40 contractors have lost their lives and 100+ have received wounds.

#### *Inherently Governmental (IG)*

Determining whether the WPPS mission is IG is difficult. A review of the Federal Acquisition Regulations (FAR) does not specifically state PSS is an IG function, but IG activities normally fall into two categories:

- (1) The exercise of sovereign government authority, (the act of governing).
- (2) The establishment of procedures and processes related to the oversight of monetary transactions or entitlements.
- (3)

The FAIR Act defines IG as “a function that is so intimately related to the public interest as to require performance by federal government employees.”<sup>57</sup> Using this definition a case could be made that WPPS is IG, however, DOS has not elected to do so thus far. As a result, the WPPS mission remains open to outsourcing.

#### *Advantages and Disadvantages of WPPS*

In light of all the bad press that exist currently concerning the WPPS mission, and in particular Blackwater USA’s retention as a contractor, there are distinct advantages and disadvantages of outsourcing the WPPS mission. Highlighted below are known differences.

##### Advantages

Ease of Execution in terms of letting a contract to fill immediate PPS requirements

Flexibility in increasing or downsizing personnel requirements

PSS contractors readily available as part of the WPPS

##### Disadvantages

Contractor mistakes and mishaps reflect directly on U.S. Foreign Policy/ Image

Costs are noticeably higher if mission continues indefinitely

DOS and DOD do not possess the needed

II contract to fill new requirements	capabilities to satisfy all requirements
DOS has improved upon its contract oversight	Use of military forces creates diplomatic challenges
FAR does not restrict outsourcing of PSS mission	
“Kennedy Panel” recommends staying with contractors to fulfill mission	
Surge capacity makes economic sense in short run	

### *Options Available to DOS*

The DOS can allow Blackwater to continue with the current contract, or DOS can choose one of the following actions:

- (1) Re-bid Backwater’s PSS and aviation portions of the WPPS II contract. This would require extending Blackwater’s presence beyond contract end date or termination date in order to backfill their responsibilities.
- (2) DOD assumes the mission execution requirements. This is not a smart option for several reasons. First, this is not a core military mission and it would take considerable time, resources and training to get military service personnel ready to assume the mission. Second, most embassies have Marine Guards but they have assigned core functions and would only execute PSS type duties in emergencies. Next, DOD would need to increase the number of aircraft, pilots, and support personnel required in Iraq. Finally, uniformed PSS agents may detract from the DOS mission.
- (3) DSS assumes the mission. DOS could not execute this mission in the short term without significant help. For one, DSS must disperse 1450 agents to more than 285 posts worldwide.<sup>58</sup> Additionally, DSS possesses no aviation assets and would have to turn to DOD or elsewhere for help. Lastly, “hiring and training enough DSS agents to assume lead security role would take several years and cost the government millions to implement.”<sup>59</sup>
- (4) Combination Contractor Support and greater DSS presence. Depending on the situation, increasing the number of DSS agents in Iraq as well as contracting for more PSS personnel/ aviation assets and personnel, may be a viable option. DSS could also look at changing their personnel system (which would take some time) to either creating a new DSS PSS type employee/ career path (that would help reduce the two-year recruiting and training cycle required to produce a DSS agent). DSS could possibly implement a short-term fix by requesting hiring authority similar to DOD’s Title 10<sup>60</sup> Non-General Schedule Employee program (a quasi General Schedule individual contract hiring scheme) to attain experienced PSS type operators. While viable, it would take considerable time to put in place.

According to Ambassador Kennedy’s Report of the Secretary of State’s Panel on Personal Protective Services in Iraq, “they concluded that private industry remains the only feasible option. Though the panel did not recommend removing Blackwater from Iraq, they did

stipulate that DOS should soon make a decision to either fire or continue the contract.”<sup>61</sup> Ambassador Kennedy provided a host of other recommendations, which if implemented, would help with contractor oversight and accountability.

### *Conclusion*

The Department of State has a fundamental requirement to protect its diplomats and other key and essential personnel abroad. Whether the WPPS mission is an inherently governmental function will continue to be the subject of debate. We are all cognizant that we live in an imperfect world where people make mistakes that affect our foreign policy. Numerous factors contributed to the Blackwater incident; still, the USG has been slow in rectifying the situation. Some of the American public and many in the U.S. Congress believe that swift action against Blackwater and the employees in question is long overdue. However, termination of the WPSS contract would cause significant mission impact and makes little sense. The current DOS strategy of outsourcing the WPPS mission in Iraq and elsewhere around the world is the best course of action. Not only is it the right choice, but it allows DOS to focus more on their true mission of “helping to build and sustain a more democratic, secure, and prosperous world composed of well-governed states.”<sup>62</sup> In the final analysis, the contracted professionals hired by DOS best accomplish the PSS mission abroad!

*Colonel Bob Pastorelli, United States Army*

### OUTLOOK

*“An overall global pattern is emerging, one of growing reliance by individuals, corporations, states, and international organizations on military services supplied not just by public institutions but also by the non-sovereign private market. The changes that this phenomenon portends are tectonic. The emergence of a privatized military industry may well represent the new business face of warfare.”*

*Peter W. Singer, Corporate Warriors, 2003*

The privatized military industry has grown considerably in recent years. As nations around the world project power in pursuit of their interests, they are doing so with instruments composed of both public and private elements. This is especially the case in the U.S where dependence on private contractors for power projection abroad is unprecedented. The use of the private sector has allowed the U.S. government to downsize its military since 1991 from 2.1 million to 1.4 million while greatly expanding its national commitments and influence abroad. Privatized military operations are the backbone of this new American global power projection.

The privatized military market is transitioning from an adolescent oligopoly to a mature monopolistic competition. Just fifteen years ago, the market had an oligopolistic structure characterized by predominantly one major customer base consisting of national governments with only a few participating firms providing mostly privatized military services. Entry into the market was difficult due to the low number of contracts requiring significant company capital and global mobility. In the first Gulf War, the use of contractors by the U.S. Department of Defense was “approximately 1 for every 500 military” providing mainly military logistics and

sustainment services.<sup>63</sup> Today, the market has evolved into a world-wide monopolistic competition structure with many national and multi-national firms competing for governmental, non-governmental and private contracts. With the industry being immature, relatively under-regulated and overwhelmed by demand, entry of new firms into the market is rapidly expanding. Yet with the risks inherent in the market due to the operating environment, firms have to be specialized and provide highly differentiated services to be successful.

The privatized military market is on the upswing. As the largest customer in the market, the USG is slated to increase its spending on privatized military operations and increase outsourcing of government operations.<sup>64</sup> The Congressional Budget Office projects that over the next ten years another \$1 trillion may be spent on operations in Iraq, Afghanistan and the global war on terror of which a significant portion will go to privatized services. Additionally, U.S. military assets are aging and not being replaced quickly. The Operations and Maintenance (O&M) portion of the DOD budget is the largest and fastest growing segment of DOD spending.<sup>65</sup> The Services today rely on privatized firms to provide O&M services and that reliance is only expected to increase.

As the market grows, competition grows. In 2007, the Peace Operations Institute targeted 334 companies in the privatized government market<sup>66</sup> to participate in its survey which was up considerably from 103 companies targeted in 2006.<sup>67</sup> Firms are wide ranging from major international corporations to small businesses to independent individual contractors. To promote competition to gain greater efficiencies, the USG has started to shift the nature of its contracting structure from cost reimbursement to time-and-materials or fixed-price contracts.<sup>68</sup> In addition, the USG has started using more multiple award-for-service contracts, especially with ID/IQ type contracts such as the U.S. Army LOGCAP contract.<sup>69</sup> At the same time, the market is dynamically adjusting. At one end of the spectrum, consolidation among firms is gathering pace. The most evident has been the acquisition of MPRI by L3 Communications and the acquisition of DynCorp by Veritas Capital. On the other end of the spectrum, smaller firms are breaking off from larger firms like KBR, once a wholly-owned subsidiary of Halliburton, which became independent in 2007. In other cases, new firms have splintered off of existing firms, as when Special Tactical Systems was started by a former Blackwater employee.<sup>70</sup> As the market continues to mature, adjustment will be constant.

Across the globe, PMFs are beginning to engage in unique public-private partnerships with governments to provide services across entire government sectors. As an example, the U.S. firm KBR through Aspire Defense has entered into a 35-year, \$16 billion contract with the British Ministry of Defense, called Project Allenby/Connaught, through which KBR/Aspire Defense will build and provide complete base facilities and support for the British Army.<sup>71</sup> This venture is unique in that a private contractor is not just providing a specific service to support base functions, such as food services, but it is building and providing a complete spectrum of base operations for a government entity. The opportunities emerging from this new public-private partnership model appear endless.

The PMO industry has come of age with unprecedented growth since 9/11, and future demand still increasing. The next five years will be marked by increased government spending and outsourcing, market expansion and adjustment, and increased public-private partnership opportunities.

## **GOVERNMENT GOALS, ROLES, POLICY RECOMMENDATIONS**

*Defending our Nation against its enemies is the first and fundamental commitment of the Federal Government. Today, that task has changed dramatically...to defeat this threat we must make use of every tool in our arsenal.*

*National Security Strategy, 2006*

Since the 9/11 attacks, the U.S. has demonstrated its resolve to fulfill this goal by budgeting approximately \$4.2 trillion on total DOD spending (\$700 billion in war-related appropriations since 9/11) and passing laws restricting civil liberties such as the Patriot Act.<sup>72</sup> These actions, which were deemed a necessary response to this tragic event, also demonstrate the nation's acceptance of effectiveness over efficiency in the time of national emergency. However, as the war has lingered and the effectiveness of efforts to date is called into question, the efficiency of government operations has come under greater scrutiny.

The nation's extensive use of private contractors during the current era is another such effort caught in the crosshairs of this debate. "The number one reason cited for using private contractors in Iraq is the same reason driving arguments for privatizing other government functions: outsourcing saves taxpayer money because private firms in a competitive market can do the job more efficiently and at a lower cost. Critics question how money is saved if firms must pay employees higher wages to attract them to work in Iraq...critics also argue that financial efficiencies are lost when companies subcontract with other companies, as is typical of the private contractors operating in Iraq. [However], no definitive studies on the cost-effectiveness of military outsourcing have been done yet."<sup>73</sup>

In its roles as the industry's largest customer and chief regulator, the government has a responsibility to settle this debate by developing a long term strategy for the use of privatized contractors in promoting the nation's security.

### *Policy Recommendation*

The quasi-privatization of war has a long history and is consistent with America's efficient capitalistic economy. As the USG begins to face increasing competitive pressure for scarce dollars, it should focus greater attention on *which* functions and activities should be contracted out and which should not. In short, it appears all the outsourcing decisions were made in a discreet tactical fashion over a period of years using fiscal considerations. The government must consider developing a total workforce strategy to meet current and future human capital needs, and address the extent of contractor use and the appropriate mix of contractor, government civilian and military personnel. This is an important point because as Robert Kaplan points out "the more technological the military sphere becomes, the greater the emphasis on the quality of personnel, rather than on their number. And the private sector can offer trained personnel, whether on land or at sea. Rather than go back to a military draft, we're more likely to see the further privatization of war." The question then becomes what to outsource and what is an inherently governmental function that should remain in-house.

This strategy should begin with a national vision that includes every tool in the nation's arsenal (i.e. all instruments of national power). To reflect the far reaching use of the industry across the government, the President first needs to commission an interagency task force to develop this government wide vision that considers:

- the scope and magnitude of the nation’s foreign policy engagement strategy
- the specific capabilities required to execute this strategy and a determination of which USG agency is best equipped to deliver this capability
- a definition of the roles and missions of the various USG agencies in executing this strategy
- an assessment of the capability gaps within these USG agencies to conduct these missions and a determination of whether the gap needs to be filled by increased force structure or if the use of private contractors is a preferable option to perform this mission

If the determination is made to pursue private contractors as a means to fill the gap, the government needs to conduct an A-76 or similar competition to make the business case for using private contractors in lieu of government personnel. Although this policy does not mandate competition for any new work,<sup>74</sup> the irregular ways and means needed in the current era to further the nation’s security will likely require new functions. Thus, an A-76 competition is warranted for all tasks considered for privatization. To date, the government has failed to provide this level of justification for its use of private contractors and this competition would help make the case that private contractors provide best value to the government by adding quantitative data to what has mostly been a qualitative assessment of the benefits private contractors provide.

For missions contracted out, the government needs to define whether it requires a reserve level of organic support to provide access to this capability in time of national crisis. If so, it should develop strategy and issue applicable policy to ensure this capability is maintained within the government. Policy that follows the 50/50 depot workload rule—which limits government spending on contractors performing depot maintenance to no more than 50 percent of the total spent in this area during a fiscal year—is an established model to consider.

In its regulatory role, the President’s interagency task force should be used to establish a general policy framework for use by each agency to properly integrate contractors into their workforce. The general policies need to address planning guidance, contract execution, contract oversight, training, risk assessment and feedback mechanisms.<sup>75</sup> In addition, credible guidelines for ensuring transparency of effort of the combined government-contractor workforce and total accountability of actions by all individuals need to be comprehensively defined. These guidelines should build upon existing laws such as House Regulation (HR) 4986 that directs the DOD and DOS to better account for their use of private contractors during contingency operations and HR 2740 that seeks to expand the jurisdiction of MEJA to all contractors and require the DOJ to report on all cases referred to them.

The results of the President’s task force should be packaged into a Presidential Directive that provides clear and comprehensive guidance on the government’s long term strategy for using private contractors to further the nation’s security.

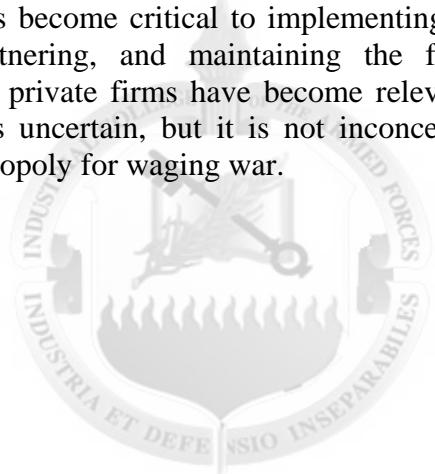
## **INDUSTRY STUDY CONCLUSION**

The privatized military operations industry has come of age. It has experienced unprecedented growth since 9/11, and its future appears bright. Public-private partnering to provide policy-makers with needed capabilities in a diverse environment is how America will

sustain global prominence. The next five years will be marked by increased government spending and outsourcing, market expansion and adjustment, and increased partnership opportunities. Although there are many uncertainties facing this industry, five broad challenges have come to the forefront: integrated strategic planning, PMFs and the U.S. acquisition force, clarity and application of law, impending budget shortfalls, and visibility of and sustaining the labor base.

Finding workable solutions to these challenges is vital. The U.S. and other nations must work together with industry in order to create and foster needed change. Only through cooperation, trust and partnering to resolve inefficiencies in the process will we correct current deficiencies and improve operations. The President should take the lead by forming a commission to determine public-private relationships with respect to the division of roles, missions, and functions. At the same time the federal bureaucracy, in cooperation with industry, should focus on the problem areas that reduce efficiency and effectiveness and create negative perceptions.

The PMO industry has become critical to implementing U.S. foreign policy. Utilizing best business practices, partnering, and maintaining the flexibility to meet tomorrow's requirements on short notice, private firms have become relevant and the preferred choice of policy-makers. The future is uncertain, but it is not inconceivable that one day PMFs will dominate the government monopoly for waging war.



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